IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1537 OF 2006

Smt. Shanta Gharge ... Petitioner

Versus

State of Maharashtra and others ...Respondents

Mr. M.P. Vashi for the petitioner.

Mr. P.M. Mokashi, Assistant Government Pleader, for respondent Nos. 1 to 3.

CORAM: **SWATANTER KUMAR, C.J.** & **S.C. DHARMADHIKARI, J.**

DATE: **APRIL 23, 2007**.

P.C.

The learned Assistant Government Pleader, upon instructions from the Director of Education, Secondary and Higher Secondary, State of Maharashtra, who is present in Court, submits that the termination order passed against the petitioner has been recalled. The approval for appointment of the petitioner as a teacher in the School has been granted and an action has also been taken against the Education Officer concerned for committing the omissions and commissions in relation to the case of the petitioner. As a result of grant

of approval, copy of the order dated 20th April, 2007, has been placed on record.

2. In view of the fact that now the approval has been granted by the competent authority, the termination of the services of the petitioner cannot stand in law. Consequently, the order of termination is hereby set aside. The petitioner would be entitled to continue in service. The period of one year's break, which is a default on the part of the department, will not be treated as a break in service. However,the petitioner would not be entitled to salary for the intervening period on the principle of no work no pay. It will not, as already directed, be treated as a break in service.

3. It is obvious that the petitioner has been compelled to come to the Court because of the inaction and wrongful action of the respondents and thus this petition should be allowed with costs. The writ petition in the above terms is allowed with costs which are assessed at Rs. 5,000/-. This cost shall be recovered from the salary of the Education Officer who is found to be erring by the Director himself as stated in Court today. We make it clear that the cost in the first instance shall be paid by the Government and would be recovered

within a period of one month from the defaulting Officer in accordance with law. The salary for the period prior to one year shall be deposited in the account which may be furnished by the petitioner to the department.

CHIEF JUSTICE

S.C. DHARMADHIKARI, J.